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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/678,827	10/04/2000	Jeff Schulz	FORE-70	5654
7590	08/22/2005		EXAMINER	
Ansel M Schwartz One Sterling Plaza 201 N Craig Street Suite 304 Pittsburgh, PA 15213			EMDADI, KAMRAN	
			ART UNIT	PAPER NUMBER
			2667	
DATE MAILED: 08/22/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/678,827	SCHULZ, JEFF	
	Examiner	Art Unit	
	Kamran Emdadi	2667	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 July 2005.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-17 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7-21-05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Response to Arguments***

Applicant's arguments filed July 19, 2005 have been fully considered but they are not persuasive.

The declaration under 37 C.F.R. 1.132 has been considered and the reference has been withdrawn. However, the 35 U.S.C. 112, second paragraph, rejection has been maintained as the Applicant has failed to address the indefiniteness of independent claim 1. Further, all subsequent dependent claims 2-17 are also rejected by virtue of their dependency.

The Applicant has failed to amend the claims to overcome the 35 U.S.C. 112, second paragraph, rejection for indefiniteness. The Examiner points out that the original rejection, as maintained here, requires an explanation as to what portions of the packets are being dequeued by the first and second dequeuers. For example, claim 1 recites:

“a first dequeuer for dequeuing the portions of the packet; a second dequeuer for dequeuing the portions of the packet; and a state machine for controlling when the first and second dequeuers dequeue the portions of the packet.”

The Examiner understands dequeuing as a process of removing stored portions of a packet from a queue or memory. Here, in the instant application and in claim 1, there are two dequeuing operations and one packet. Claim 1 recites “the portions of the packet” as being dequeued by both first and second dequeuers. It is indefinite as to whether “the portions of the packet” are the same portions or different portions. Claim 1

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could be re-written to distinguish “the portions” as one or more first portions and one or more second portions being dequeued by the first and second dequeuers, respectively.

The Examiner also suggests clarifying this indefinite claim language by using the language of the specification as a guide to distinguish between what portions of the packet are dequeued, and by which dequeuer. For instance, page 5 of the specification provides:

The dequeuing with the second dequeuer 20 step preferably includes the step of dequeuing with a second dequeuer 20 of the fabric the portions of the packet from the queue 16 after the first dequeuer 18 has dequeued the portions of the packet independent of the operation of the first dequeuer 18.

Accordingly, this action has been made final.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 discloses that the first and second dequeuers are dequeuing “the portions of the packet” it is unclear as to whether the dequeuers are dequeuing the same portions of the packet or different portions of the packet. Given the scope of the invention, it is the Examiner’s understanding that the first and second dequeuers are dequeuing separate portions of the same packet, however, the Examiner cannot be certain and the claim language is indefinite regarding this feature.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamran Emdadi whose telephone number is 571-272-6047. The examiner can normally be reached on M-F between the hours of 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kamran Emdadi

August 16, 2005



CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2000 8/18/05